

Service Date: November 28, 1990

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER of the Application)	
of the CITY OF GREAT FALLS for)	UTILITY DIVISION
Authority to Increase Rates and)	DOCKET NO. 90.10.66
Charges for Sewer Service to its)	ORDER NO. 5522
Great Falls, Montana Customers.)	
-----)	

INTERIM RATE ORDER

FINDINGS OF FACT

1. On November 5, 1990, the City of Great Falls (Applicant or City) filed an application with this Commission for authority to permanently increase sewer rates for its Great Falls, Montana customers by approximately 63.17%, which constitutes an annual revenue increase of approximately \$1,651,700.

2. Concurrent with this filing for a permanent increase in rates, the City filed an application for interim rate relief. The City requested an interim increase in rates of 25.72%, equalling a revenue increase of approximately \$672,500 or 40.7% of the proposed permanent increase.

3. Before the Commission will authorize interim rate relief, it insists on a clear showing that the petitioning utility is suffering an obvious income deficiency. Generally, the Commission finds that reference to the adjustments approved in the most recent

general rate order of the petitioning utility provides an appropriate means to measure financial performance.

4. The City has not previously filed a general rate increase application with the Commission. Therefore, no previous rate decisions exist for purposes of determining the financial performance of the City's sewer utility operation. In order to measure financial performance, so as to determine a need for interim rate relief in this Docket, the Commission will rely on the City's actual fiscal year 1990 financial information, adjusted for rate increases and certain operating cost increases alleged by the Applicant.

5. Examination of fiscal year 1990 financial information (revenue adjusted to reflect local level increase) submitted by the City indicates that the utility did not generate sufficient revenue to cover its costs of operation and debt service. The City sewer utility fell short of covering these costs by \$260,400.

6. The City currently contracts with a private firm for the operation of its sewage treatment facility. In the submitted financial information, the City indicates that the contractor has increased the cost of this contract by \$77,000 for the next fiscal year. The increased contract cost is currently being assessed the utility, but it is not currently included as part of the sewer utility's revenue requirement. Therefore, for interim purposes, it is appropriate to include this increased cost of operation.

7. The City currently has an outstanding revenue bond, therefore, it must meet the requirements of the revenue bond indenture. In the sale of municipal bonds, the purchasers of the bonds must be assured that their investment is secure. To provide

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this security, the municipality makes a promise, called a covenant, to do certain things which will ensure that it will always be able to pay the bonds principal and interest as they come due. As part of its current bond indenture, the City has agreed to a covenant requiring that it achieve a minimum bond coverage of 125%.

8. The City represents in its filing that as result of insufficient revenue generation by the sewer utility, it has been unable to meet the requirements of its revenue bond indenture insofar as it relates to the 125% bond coverage requirement. Failure to meet the bond coverage requirement of the current bond indenture places the City in technical default. Since the bond coverage requirement is a component of the City's overall cost of providing sewer service, it is properly recoverable through rates.

9. As provided for in the City's current revenue bond indenture, the required net operating income is calculated by multiplying the annual principal and interest payment on outstanding bonds by 25%. The City's principal and interest payment on bonds is \$426,100. Therefore, based on requirements of the bond indenture, the City is required to generate net operating income of \$106,525 ($\$426,100 \times .25 = \$106,525$). As previously stated in Finding 5 the sewer utility generated a loss of \$260,400 during 1990. The loss sustained by the City's sewer utility, when compared to required net operating income, clearly indicates that the City is violating the requirements imposed on it by its debt holders.

10. The City as part of its request for interim rate relief has included \$367,000 for "Cash Financed Capital Improvements". The Commission fully supports the adequate funding of capital improvements, financed through current revenues, when that funding is tied to a schedule of contemplated system improvements. The City, in this instance, has requested cash funding for certain

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capital improvements and tied it to a contemplated schedule, but the Commission is hesitant to grant funding at the level requested on an interim basis. The financing of capital improvements and the contemplated improvement schedule are issues in this Docket. Therefore, the Commission, pending full investigation of these issues, is not willing to authorize funding at the level requested.

If it authorized funding at the level requested, the Commission, contrary to its interim rate policies, would be prejudging contested issues in the interim order. .

11. Although the Commission is unwilling to authorize funding of "Cash Financed Capital Improvements" at the level requested, the sewer utility will not be totally without funds to make these improvements. The funds generated by the 125% coverage ratio, in the amount of \$106,525, are unencumbered funds of the sewer utility and therefore can be used to pay for "Cash Financed Capital Improvements."

12. The City in its filing represents that the sewer utility has incurred a debt obligation through the execution of an interfund loan, i.e., the sewer fund has borrowed \$759,500 from the City's central garage fund. The City indicates that the sewer utility borrowed the money to make capital improvements to the sewer system. The City further indicates that the sewer utility has a requirement to repay \$61,500 of this loan during the next year. The interfund loan is a debt obligation which must be satisfied and the Commission will recognize the cost for interim purposes. However, the Commission, during the course of this proceeding, will be investigating the interfund borrowing to determine the reasonableness of the transaction and the underlying rationale for entering into the agreement.

13. The Commission finds, based on the preceding Findings of Fact, that the sewer utility is suffering an obvious income

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deficiency in this instance; that deferring rate relief until a final order can be issued may adversely affect the utility's financial condition; and, further, that under the Commission's current ratemaking standards the utility may be entitled to rate relief at the time a final order is issued.

14. The Commission finds that the City's sewer utility is not meeting the terms and conditions of its bond indenture agreement; the sewer utility is sustaining losses; and the sewer utility has an obligation to repay a loan from the City's central garage fund. Accordingly, the Commission finds that the City is entitled to interim rate relief of \$505,425.

15. The Applicant shall generate the increased annual revenue authorized in this order by increasing all rates and charges by a uniform percentage.

CONCLUSIONS OF LAW

1. The City of Great Falls is a public utility as defined in Section 69-3-101, MCA. The Montana Public Service Commission properly exercises jurisdiction over the Applicant's rates. Title 69, Chapter 7, MCA.

2. Section 69-3-304, MCA, provides in part, "The Commission may in its discretion , temporarily approve increases pending a hearing or final decision.

3. The Commission concludes that the grant of an interim rate increase is just, reasonable and within the discretion granted by Section 69-3-304, MCA.

4. The increase granted herein is subject to rebate should the final order conclude that either no increase or a lesser increase is warranted. 69-3-304, MCA.

ORDER

THEREFORE THE MONTANA PUBLIC SERVICE COMMISSION ORDERS THAT:

1. The City of Great Falls is hereby granted authority to implement, on an interim basis, increased rates for its Great Falls, Montana customers designed to generate additional annual revenues in the amount of \$505,425.

2. The City of Great Falls is to file revised tariff schedules spreading the increased revenues as a uniform percentage increase to all services.

3. The interim relief granted in this Order is to be effective upon Commission approval of the revised tariff schedules.

DONE IN OPEN SESSION at Helena, Montana this 19th day of November, 1990 by a 5 - 0 vote.

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BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

HOWARD L. ELLIS, Chairman

DANNY OBERG, Vice Chairman

WALLACE W. "WALLY" MERCER, Commissioner

JOHN B. DRISCOLL, Commissioner

REX MANUEL, Commissioner

ATTEST:

Ann Peck
Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.